



RING/BENDER

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September 28, 2016

National Freedom of Information Officer
United States Environmental Protection Agency
Office of Environmental Information
Records, FOIA, and Privacy Branch
1200 Pennsylvania Avenue NW (2822T)

Regional Freedom of Information Officer
U.S. Environmental Protection Agency, Region 10
Office of Ecosystems, Tribal and Public Affairs
1200 6th Avenue ETPA-124
Seattle, WA 98101

Re: *The Marine Group - Freedom of Information Act Request,
Portland Harbor Superfund Site*

To Whom It May Concern:

This is a request for agency records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. This request is submitted on behalf of The Marine Group LLC. Specifically, this request concerns United States Environmental Protection Agency (EPA) records related to the Portland Harbor Superfund Site ("Site") in Oregon.

Throughout this request, the term "agency records" is intended to have the broadest and most inclusive meaning possible under the FOIA. As such, the term "agency records" includes, but is not limited to, all documents, agreements, contracts, reports, analyses, memoranda, emails, including email on personal accounts, transcripts, minutes, notes, bulletins, worksheets, schedules, calendars, drawings, photographs, renderings, figures, diaries, workpapers, presentations, data compilations, spreadsheets, databases, and communications created or obtained by EPA and under EPA's control at the time of this request. *See U.S. Dep 't of Justice v. Tax Analysts*, 492 U.S. 136, 144-46 (1989).

Specifically, the term "agency records" includes, but is not limited to, all agency records in electronic, hard copy, or any other tangible or graphic format, however produced or reproduced, including audio or video recordings. "Communications" means any and all recorded communications within, to, or from EPA (and to, from, or among EPA's consultants and contractors working on the Site), including letters, electronic forms and submissions, emails, and text messages, including any attachment or enclosure included with the communication. "Communications" includes those communications generated by or contained on email accounts, computers, tablets, phones, and other electronic communication devices, used to communicate information responsive to this request. This request is for agency records of EPA as a whole, and it is therefore not limited to agency records of EPA Region 10.

The Marine Group requests copies of the following agency records:

1. All agency records and communications relating to any deferral, suspension, or cancellation of dredging activity within the Site that was to be conducted by the United States Army Corps of Engineers (USACE) or authorized by USACE, for any reason, including the presence or threat of hazardous substances in the water and/or sediments of Portland Harbor. This request is limited to records and communications created between January 1, 2000 and September 28, 2016.
2. All agency records and communications relating to any deferral, suspension, or cancellation of dredging activity within the Site that was to be conducted by the Port of Portland or authorized by the Port of Portland, for any reason, including the presence or threat of hazardous substances in the water and/or sediments of Portland Harbor. This request is limited to records and communications created between January 1, 2000 and September 28, 2016.
3. All agency records and communications relating to any instance where the United States Army Corps of Engineers performed navigation or maintenance dredging at a river, harbor, or other waterway designated as a Superfund, and which potentially responsible parties (PRPs) or a state entity contributed payment for the cost of such dredging. This request is limited to records and communications created between January 1, 2000 and September 28, 2016.

4. All agency records and communications relating to any instance where the United States Army Corps of Engineers has performed navigation or maintenance dredging at a river, harbor, or other waterway designated as a Superfund site, and which potentially responsible parties (PRPs) or a state entity contributed payment for the cost of handling and/or disposing of hazardous substances at a disposal facility. This request is limited to records and communications created between January 1, 2000 and September 28, 2016.
5. All agency records and communications pertaining to potential or actual appropriations by the United States Congress to fund maintenance or navigation dredging operations by the United States Army Corps of Engineers within Portland Harbor. This request is limited to records and communications created or occurring between January 1, 2000 and September 28, 2016
6. All agency records and communications pertaining to potential or actual appropriations by the United States Congress to fund dredging operations by the United States Army Corps of Engineers as part of the Remedy for the Site, including but not limited to dredging of the so-called "Navigation Channel." This request is limited to records and communications created or occurring between January 1, 2010 and September 28, 2016.
7. All agency records and communications pertaining to potential or actual dredging operations to be performed by the United States Army Corps of Engineers as part of the Remedy for the Site, including but not limited to dredging of the so-called "Navigation Channel." This request is limited to records and communications created or occurring between January 1, 2010 and September 28, 2016.
8. All agency records in the form of spreadsheets, tables, calculations, charts, or maps pertaining to potential or actual dredging operations to be performed by the United States Army Corps of Engineers as part of the Remedy for the Site, including but not limited to dredging of the so-called Navigation Channel. This request is limited to records created between January 1, 2010 and September 28, 2016.

9. All agency records and communications by and/or between the United States Army Corps of Engineers (USACE) and EPA pertaining to potential or actual dredging operations to be performed by USACE as part of the Remedy for the Site, including but not limited to dredging of the so-called Navigation Channel. This request is limited to records and communications created or occurring between January 1, 2010 and September 28, 2016.
10. All agency records and communications pertaining to the recoupment, reimbursement, or recovery of costs by the United States Army Corps of Engineers from potentially responsible parties (PRPs) for the cost of dredging activities performed within the Site. This request is limited to records and communications created or occurring between January 1, 2010 and September 28, 2016.
11. All agency records and communications pertaining to the recoupment, reimbursement, or recovery of costs by the United States Army Corps of Engineers from potentially responsible parties (PRPs) for the disposal of contaminated material dredged from the Site. This request is limited to records and communications created or occurring between January 1, 2010 and September 28, 2016.

We will accept responsibility for the reasonable and necessary costs associated with EPA's response to this request, including reasonable standard charges for document searching and duplication, up to a maximum amount of \$2,000.00. See 5 U.S.C. § 552(a)(4)(A)(ii)(III); 40 C.F.R. § 2.102(d). If EPA determines that the reasonable and necessary costs of responding to this request will exceed \$2,000.00, please contact us as soon as possible to discuss payment. If for some reason copies of certain agency records cannot be made or provided, we request an opportunity to view and inspect those agency records.

If a given agency record is responsive to more than one individual request or is found in more than one location, EPA need not provide multiple copies or duplicates of the same record. All responsive records that have not been provided, or that are not readily available, must still be provided in response to this request.

If it is EPA's position that any of the agency records requested in this letter are exempt from disclosure under the FOIA, EPA must nonetheless provide any reasonably segregable portions of those agency records after deleting or redacting the purportedly exempt portions. 5 U.S.C. § 552(b); *Pebble Ltd. P'ship v. U.S. Env'tl. Prot. Agency*, No. 3:14-cv-0199-HRH, 2016 WL 128088, at *3 (D. Alaska Jan. 16, 2016); see also Attorney General

Eric L. Holder, Memorandum for Heads of Executive Departments and Agencies (Holder Memorandum), 74 Fed. Reg. 49892-01 (Sept. 29, 2009), 74 Fed. Reg. 51878-02 (Oct. 8, 2009) ("Agencies should always be mindful that the FOIA requires them to take reasonable steps to segregate and release nonexempt information.").

If EPA withholds all or any portion of a record requested in this letter, EPA must indicate in the response the amount of information that is withheld, deleted, or redacted, as well as the basis for each withholding, deletion, or redaction. 5 U.S.C. § 552(b); 40 C.F.R. § 2.104(h). Please provide an index or catalogue of responsive agency records that EPA intends to withhold in full or in part, as well as an individual explanation for each full or partial withholding, consistent with the holding in *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973).

If EPA chooses to withhold segregable portions of any agency record that is responsive to this request, please use blackout redactions rather than deletions or whiteout redactions. If agency records that would otherwise be responsive to this request have been destroyed or are no longer in EPA's control, please identify each record, the date of destruction, and the person(s) who destroyed the record.

We invite you to contact us as soon as possible to arrange for delivery of the agency records requested. In the meantime, we appreciate your prompt attention to this request, and look forward to your response.

Very truly yours,

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